

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	WC Docket No. 14-259
Connect America Fund Rural Broadband Experiment)	WC Docket No. 10-90
)	WC Docket No. 14-58
Petition for Extension of Time)	
To File LOC Commitment Letter)	

COMMENTS OF MINNESOTA TELECOM ALLIANCE

The Minnesota Telecom Alliance (MTA)¹ submits these Comments in response to the Request for Extension of Time filed by LTD Broadband, LLC (“LTD”), on February 3, 2015.² LTD filed its request for an extension of thirty (30) days on the date it was required to file a commitment letter from an acceptable bank to issue an irrevocable stand-by letter of credit, claiming that it was unable to file the “commitment letter within the time requested.”³

The Commission’s policy is that “extensions of time shall not be routinely granted.”⁴ The MTA does not oppose the grant of this specific extension, but would oppose additional extensions. As a practical matter, LTD’s filing on the due date for the letter of credit and the limited duration of the requested extension leave the Commission with few alternatives prior to the expiration of the extension request (March 5, 2015). However, if the real problem is that LTD’s “preferred banking partner” was *unwilling* to grant the letter of credit (rather than *merely unable to meet the timeline* for unspecified reasons), then the Commission will soon be facing an issue with very different implications. Accordingly, the MTA urges the Commission to refrain

¹ The MTA is a trade association representing the interests of over 85 small, medium, and large companies that provide advanced telecommunications services, including voice, data and video to consumers throughout rural, suburban, and urban Minnesota.

² *Request for Extension of Time to File LOC Commitment Letter*, LTD Broadband, LLC, filed February 3, 2015 (the “LTD Request”).

³ *Id.* p. 1

⁴ 47 C.F.R. § 1.46(a).

from granting any *additional* extension of time which LTD may subsequently request to fulfill its requirement to file the commitment letter.

LTD provides no explanation for why it experienced the “unforeseen circumstances”⁵ of two banking institutions declining to issue a commitment for an irrevocable letter of credit to LTD. LTD claims its circumstances are similar to those faced by Standing Rock Telecommunications, Inc. (“SRTI”), whose request for an extension of time to file a commitment letter was granted by the Commission.⁶ However, the special circumstances relied on by the Commission as the basis for granting the SRTI extension, are entirely absent in this case.

The Commission explained the policy and facts supporting an extension, which centered on Commission support for tribal economic development, SRTI's sovereign tribal governmental process and the banking complexities of tribal jurisdiction and administration of trust lands:

The Commission has a longstanding policy of *promoting Tribal self-sufficiency and economic development* and of helping ensure that Tribes have adequate access to communications services. The Commission has recognized its “fiduciary duty to conduct [itself] in matters affecting Indian tribes in a manner that protects the interests of the tribes” and its corresponding obligation to interpret “federal rules and policies . . . in a manner that comports with tribal sovereignty and the federal policy of empowering tribal independence.” In line with these Commission policies, *we respect the Standing Rock Sioux Tribe's governmental approval process* ... and we recognize that this process contributed to the delay in executing SRTI's LOC commitment letter. We also *have no reason to doubt that SRTI's financing approval process was prolonged and complicated by the need to work with banks that lack familiarity with issues of Tribal jurisdiction and administration of trust lands* in Indian Country. ... In this instance, *special circumstances* warrant a deviation from the general rule, and such deviation will serve the public interest.⁷

In contrast, the LTD extension request fails to identify a single special circumstance to support its request. Refusal of a banking institution to issue an irrevocable letter of credit to an

⁵ *Id.* p. 1

⁶ *In the Matter of Standing Rock Telecommunications, Inc. Request for Limited Extension of Time to Submit Bank Commitment Letter for Mobility Fund Phase I Support (Auction 901)*, Order, DA 13-1848 (2013) (“SRTI Waiver Order”).

⁷ *In the Matter of Standing Rock Telecommunications, Inc. Request for Limited Extension of Time to Submit Bank Commitment Letter for Mobility Fund Phase I Support (Auction 901)*, Order, DA 13-1848 (2013) (“SRTI Waiver Order”) at ¶ 13 (footnotes omitted; emphasis added).

applicant is neither uncommon, nor unforeseeable, in commerce. However, LTD provides no explanation for why its applications for an irrevocable letter of credit were declined, so it is impossible to know whether special circumstances exist, or it is simply that commercial underwriting and credit evaluation drove the banking institutions' decisions.

LTD claims that denial would "leave the residents of these rural areas without access to broadband."⁸ LTD's statement is unsubstantiated. If the real problem with the failure to provide the letter of credit on February 3, 2015 is a lack of credit quality in LTD or its broadband proposal, it is likely that there will be further extension requests. Granting such requests would be likely to delay, not advance, broadband deployment.

CONCLUSION

For the reasons stated above, the MTA does not oppose the grant of the specific, single, requested extension to LTD. However, the MTA urges the Commission to deny granting any *additional* extension of time which LTD may subsequently request to fulfill its requirement to file the commitment letter.

Date: February 13, 2015

Respectfully submitted

MINNESOTA TELECOM ALLIANCE

/s/ Brent J. Christensen

By Brent J. Christensen,
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⁸ LTD Request p. 4.